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In The  
**Supreme Court of the United States**  
 October Term, 1990

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JOSEPH F. SPANIOLO, JR.  
CLERK

REICHHOLD CHEMICALS, INC.,

*Petitioner,*

v.

TEAMSTERS LOCAL UNION NO. 515,  
 AFFILIATED WITH THE INTERNATIONAL  
 BROTHERHOOD OF TEAMSTERS, CHAUFFEURS,  
 WAREHOUSEMEN AND HELPERS OF AMERICA,  
 and  
 NATIONAL LABOR RELATIONS BOARD,

*Respondents.*


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On Petition For A Writ Of Certiorari  
 To The United States Circuit Court Of  
 Appeals For The District Of Columbia

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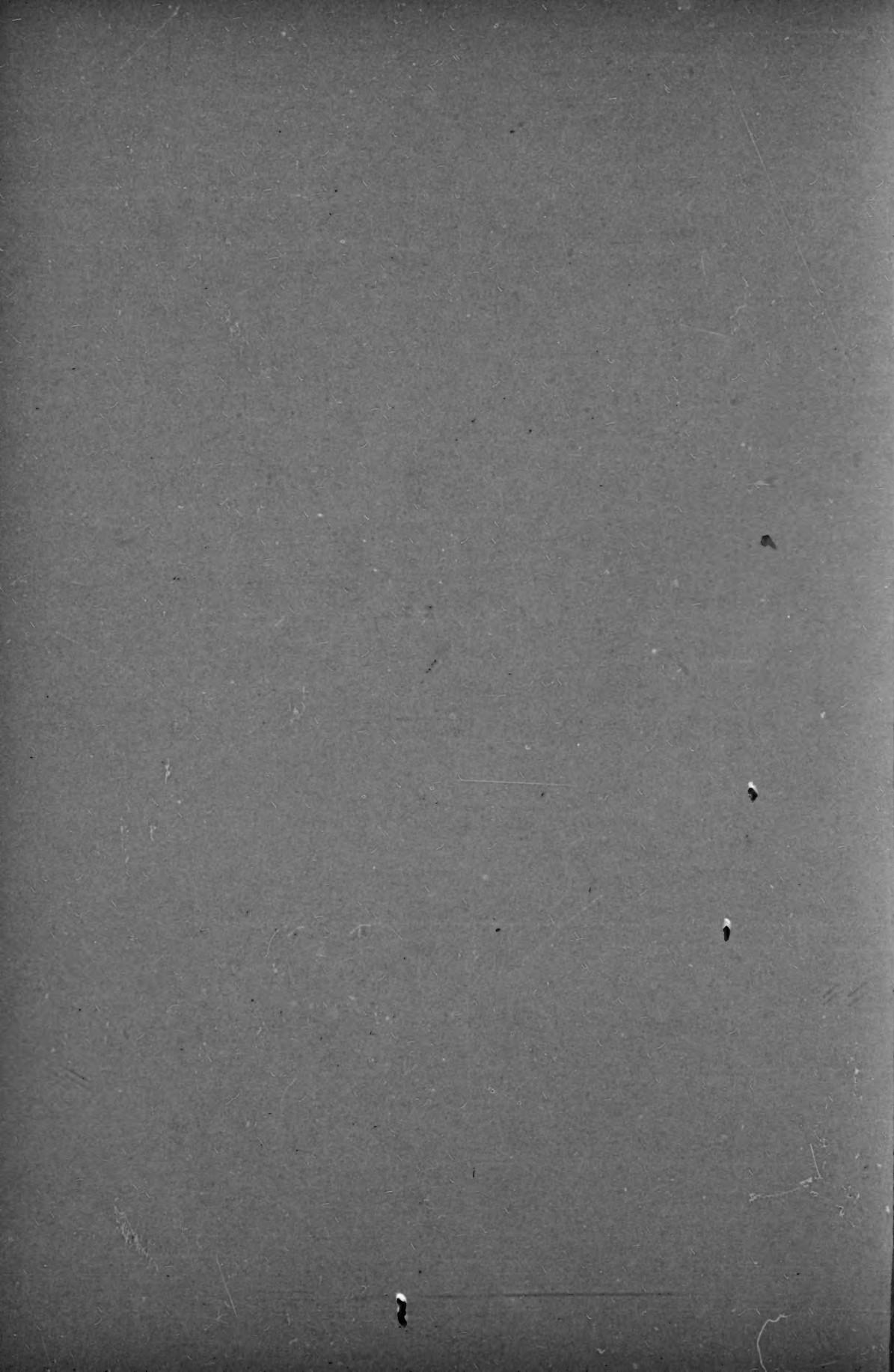
**PETITIONER'S REPLY**

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CHRIS MITCHELL  
 (Counsel of Record)  
 CONSTANGY, BROOKS & SMITH  
 Suite 1410  
 AmSouth/Harbert Plaza  
 1901 6th Avenue North  
 Birmingham, AL 35203-2602  
 (205) 252-9321

WILLIAM A. BLUE, JR.  
 CONSTANGY, BROOKS & SMITH  
 1080 Vanderbilt Plaza  
 2100 West End Avenue  
 Nashville, TN 37203  
 (615) 320-5200

*Attorneys for Petitioner*



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Petitioner Reichhold Chemicals, Inc., pursuant to Supreme Court Rule 15.6, respectfully submits this Reply.

Respondent Teamsters' counterstatement of the case says Petitioner "misstates the factual record by asserting

that the unlawful proposed contract clause was not mentioned in either of the strike vote meetings." (Respondent's Brief in Opposition at 3). This accusation is an unfounded attempt to divert the Court's attention from the importance of the legal issues presented by the Court of Appeals' decision. The Court of Appeals for the District of Columbia Circuit stated: "*In this case, because the matter of the no-access provision was not specifically discussed at the strike meeting, it is crucial to inquire whether the union's reasons for recommending a strike can be imputed to the employees who voted for the strike.*" (Appendix to Petition at A-11) (emphasis added). The Court of Appeals thus affirmed without question the National Labor Relations Board's finding of fact that the specific language later found by the Board to be a permissive subject of bargaining was not known to the employees when the employees voted on whether to strike.

Further, the Teamsters' characterization of the proposal as "unlawful" is similarly misleading. The Board found the proposed "no-access clause" to be a permissive subject of bargaining, and therefore found that the employer's insistence upon the clause constituted a technical violation of the duty to bargain in good faith. The Board did not find that proposing the clause was unlawful, only that insisting upon the clause to the point of impasse was a technical violation of the Act. *The Board specifically found Reichhold "engaged in lawful hard bargaining, rather than unlawful surface bargaining."* (Appendix to Petition at A-23). This finding further supported the Board's determination that the technical unfair labor

practice not known to voting employees was not a cause of the strike.

At no point does Respondent in any way address the true issues presented by the Court of Appeals' opinion. Respondent's failure to address the obvious conflicts between the decision of the court below with prior decisions in the District of Columbia Circuit, as well as prior decisions handed down by the Fifth, Sixth, Seventh and Ninth Circuit Courts of Appeals, constitutes an admission that such a conflict exists. This case does not involve a mere dispute as to the proper inference to be drawn from the evidence. The Court of Appeals' opinion adopts an entirely new legal standard contrary to long-standing traditional tests applied in the labor relations field by the Board and the courts. Both the Court of Appeals' decision and Respondent's Brief disregard the primary role assigned to the National Labor Relations Board for determining and administering national labor policy.

This Honorable Court is, within the framework of the statute, the final adjudicator of the federal common law governing labor relations. Review of the decision below is essential to maintain consistent federal labor law and the appropriate decision-making roles of the National Labor Relations Board and the courts. For the reasons set forth in the Petition, the Briefs submitted by the *amici curiae*, and this Reply, Petitioner Reichhold Chemicals, Inc.

respectfully requests that this Court issue a writ of *certiorari* to review the decision of the Court of Appeals.

Respectfully submitted,

CHRIS MITCHELL

(Counsel of Record)

CONSTANGY, BROOKS & SMITH

Suite 1410

AmSouth/Harbert Plaza

1901 6th Avenue North

Birmingham, AL 35203-2602

(205) 252-9321

WILLIAM A. BLUE, JR.

CONSTANGY, BROOKS & SMITH

1080 Vanderbilt Plaza

2100 West End Avenue

Nashville, TN 37203

(615) 320-5200

